

THIS DISPOSITION IS  
NOT CITABLE AS  
PRECEDENT OF THE TTAB

Mailed:  
16 June, 2004  
AD

**UNITED STATES PATENT AND TRADEMARK OFFICE**

---

**Trademark Trial and Appeal Board**

---

In re King Chapman & Broussard Consulting Group, Inc.

---

Serial No. 75819436

---

David M. Ostfeld of Chamberlain, Hrdlicka, White, Williams  
& Martin for King Chapman & Broussard Consulting Group,  
Inc.

Scott M. Oslick, Trademark Examining Attorney, Law Office  
108 (David Shallant, Managing Attorney).

---

Before Quinn, Holtzman, and Drost, Administrative Trademark  
Judges.

Opinion by Drost, Administrative Trademark Judge:

On October 12, 1999, King Chapman & Broussard  
Consulting Group, Inc. (applicant) applied to register on  
the Principal Register the mark "Co-Management"<sup>1</sup> for  
"management consulting to provide organization change  
consulting and team facilitation" in International Class 35  
and "education consulting to provide breakthrough

---

<sup>1</sup> In the Office action dated January 4, 2002 (p.1), the examining  
attorney withdrew the requirement that applicant submit a drawing  
in all capital letters inasmuch "as the applicant is applying for  
registration of a special-form drawing."

education" in International Class 41.<sup>2</sup> This application (Serial No. 75819436) claims a date of first use and first use in commerce at least as early as 1997.<sup>3</sup>

The examining attorney has refused to register applicant's marks on the ground that the term "Co-Management" is merely descriptive of applicant's services under the provision of Section 2(e)(1) of the Trademark Act (15 U.S.C. § 1052(e)(1)) because the "term immediately informs potential strategies that these services will instruct users in teaching the use of CO-MANAGEMENT strategies." After the examining attorney made the refusal final, applicant subsequently filed this appeal.

A mark is merely descriptive if it immediately describes the ingredients, qualities, or characteristics of the goods or services or if it conveys information regarding a function, purpose, or use of the goods or services. In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 217 (CCPA 1978). See also In re Nett Designs, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001) ("A mark is merely descriptive if it immediately conveys qualities or characteristics of the goods"). Courts have

---

<sup>2</sup> Applicant's proposed amendment (Response dated October 5, 2000 at 2) was accepted by the examining attorney. Office action dated January 4, 2002 at 1.

<sup>3</sup> The application actually identifies the date as "Fall 1997." See TMEP 903.07.

long held that to be "merely descriptive," a term need only describe a single significant quality or property of the goods. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009, 1009 (Fed. Cir. 1987); Meehanite Metal Corp. v. International Nickel Co., 262 F.2d 806, 120 USPQ 293, 294 (CCPA 1959). Descriptiveness of a mark is not considered in the abstract, but in relation to the particular goods or services for which registration is sought. Abcor, 200 USPQ at 218.

The examining attorney relies on several NEXIS articles to support his position that applicant's term is merely descriptive.

The recent signing of a harbor seal comanagement plan between a Native organization and the federal government is welcome news.  
*Anchorage Daily News*, May 22, 1999.

The fisheries management councils established as a reform by the Magnuson Act of 1976 are a failure. The idea of "comanagement" of the fisheries is a flop.  
*Portland Press Herald*, January 30, 1999.

Comanagement can work when the two leaders have complimentary skills, Mr. Davis said. "You would need to figure out how to avoid redundancies in responsibilities and you would need to divide and conquer them." Indeed, several professional partnerships have thrived under a co-CEO model, Mr. Davis and other consultants said.  
*American Banker*, June 6, 1998.

The dedicated server offering, called Concert Custom Hosting, offers users a variety of server options and comanagement features, which allow both the user and MCI to monitor server activity.

*Network World*, March 17, 1997.

The continued decline of underwriting revenue reported by Wall Street brokerage houses portends an increase in comanagement of public offerings with regional brokerage and an increase in private placements by emerging-growth firms."

*Orange County Business Journal*, July 9, 1990.

"We have a comanagement relationship, one based on mutual respect and a goal of satisfying our tenants."  
*Washington Business Journal*, December 9, 1985.

A consortium under the comanagement of Commerzbank AG, Bayerische Vereinsbank AG, and Creditanstalt-Bankverein is arranging a 100 deutschemark (\$37 million) private placement.

*American Banker*, November 25, 1983.

The examining attorney also referred to a website ([www.co-management.org](http://www.co-management.org)) that describes the "Concept of co-management" as "a partnership arrangement in which government, the community of local resource users and external agents (NGOs, academic and research institutions), and other resource stakeholders share the responsibility and authority for the management of a resource."

The examining attorney also alludes to the material on applicant's specimens. "Co-Design™ and Co-Management are both result oriented processes that have a combined union/management team focused collaborative[ly] on achieving BT results through re-engineering, re-designing, simplifying their processes including their people process against the BT results." The specimen goes on to suggest

that the goal of the process might include the union assuming management-like activities. "There is a loss of roles; in fact, we have experienced a blurring in the lines of roles for supervision and the union relationship. There's a role being taken on by the union that they didn't have before. And that might involve hiring and firing, something they're not accustomed to."

With this evidence, the examining attorney in his brief (p.3) argues that "CO-MANAGEMENT is a management strategy wherein two or more groups within a single entity share responsibility for the management of that entity, or for the management of a specific activity." Applicant responds by arguing that this argument is "speculative of the usage of the term, completely unfounded, and inaccurate as applied to Applicant's situation." Reply Brief at 3. Applicant goes on to argue that its services "are, at most, a collaborative of design between union and management which is an arbitrary usage." Id. Finally, applicant asserts that: "Indeed after some thought and probably many hints from someone who knows about Applicant's activities, and even a reading of the Specimen, the word 'CO-MANAGEMENT' as a service suggests a function that is not 'Management' of an entity but a function of outsiders

working with management in some way." Applicant's Brief at 6.

We begin our analysis by noting that we must view the mark in relationship to an applicant's goods and services in order to determine whether it is descriptive. Obviously, most words in the English language and many combinations of these words are descriptive of something. In order to be properly refused registration the question is whether the term is descriptive of applicant's goods or, as in this case, services. In determining whether a mark is descriptive when used in association with the services, we view the mark along with its advertising and promotional literature. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987) ("We discern no error or inequity in the Board's use of appellant's catalog as evidence of what it contains"). Here, applicant's services are:

management consulting to provide organization change consulting and team facilitation, and

education consulting to provide breakthrough education.

The evidence that the examining attorney refers to supports a conclusion that the term "co-management" would describe business activities in which different parties jointly participate in the management of an activity or an entity. The evidence shows that businesses, fisheries,

harbor seal programs, and other activities are "co-managed." The term "co-management" would describe courses or consulting services that taught or provided guidance on these types of management or education consulting services.

However, applicant's specimens indicate, and applicant argues, that "[o]ne of the primary services offered by Applicant is to provide a process by which union and management can collaborate on improving the overall effectiveness of engineering and design processes." Reply Brief at 1. While applicant's services may primarily involve union/management activities, applicant does not indicate that these are applicant's only activities. The term "co-management" would clearly have descriptive significance when applied to the broad field of applicant's identified management and education consulting services. See, e.g., [www.co-management.org](http://www.co-management.org) (Concept of co-management - "A partnership arrangement in which government, the community of local resource users and external agents (NGOs, academic and research institutions), and other resource stakeholders share the responsibility and authority for the management of a resource"). Since applicant has chosen to seek registration for broadly identified services, its term would describe these services.

In addition, while we admit that the term "co-management" in the abstract may seem somewhat incongruous when applied to traditional union activities, we point out that applicant's specimens indicate that its services involve a process where unions undertake roles "they didn't have before. And that might involve hiring and firing, something they are not accustomed to." Hiring and firing would traditionally be associated with management activities. To the extent that applicant's management and education consulting services would include teaching or advising parties on a process in which unions participate in traditional management activities, "co-management" would describe these services. As a result, there is nothing incongruous about how applicant uses the term in association with its services.

Therefore, when we consider the evidence that the examining attorney has submitted and applicant's specimens, we conclude that the term "Co-Management" when used in association with applicant's services is merely descriptive.

Decision: The refusal to register applicant's mark under 15 U.S.C. § 1051(2)(e)(1) is affirmed.